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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,736	10/02/2003	Christian Rieger	03191/000N086-US0	6115
7278	7590	10/18/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			ZANELLI, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,736

Applicant(s)

RIEGER ET AL.

Examiner

Michael J. Zanelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 11-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 24-27 is/are allowed.
- 6) ☒ Claim(s) 28 and 32 is/are rejected.
- 7) ☒ Claim(s) 29-31 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election of 1-10 and 24-33 in the reply filed on 9/9/04 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 11-23 have been withdrawn from further consideration.

2. Acknowledgement is made of the claim of priority to PCT/DE02/01149 and DE 101 16 321.5. In order to be accorded priority to the PCT application, a certified translation of the international application must be provided (35 USC 365(c)). Applicant is also requested to verify that the international application was pending at the time of filing the U.S. application. Such copendency must be shown in order to receive the priority claim to the PCT as well as the German application.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The disclosure is objected to because of the following informalities:

Page 42, line 15: "Figure 301" should be --Figure 3b--.

Appropriate correction is required.

5. The drawings are objected to because the blocks shown in Figs. 3a and 3b must contain suitable legends.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. Claims 29-31 and 33 are objected to because of the following informalities:

A. As per claim 29, at line 2 delete second "comprises".

B. All claims depending from an objected base claim are also objected to as containing the same deficiencies.

7. Claims 28 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 28, at line 2 the claim recites "an engine rpm-rate". It is unclear whether this is the same parameter recited at line 13 of claim 1 or a different engine rpm-rate. This confusion is further compounded in view of the recitation at line 6 ("the engine rpm-rate") in that it is unclear which "engine rpm-rate" is being referred to.

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B. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

8. Claims 1-10 and 24-33 are distinguishable over the prior art. As per claim 1, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, determining a first engine rpm-gradient signal based on engine torque and a target value of the clutch torque and correcting the first engine rpm-gradient signal based on a comparison between an actual engine rpm-rate and an engine rpm-rate recursively determined based on the engine rpm-rate signal. Dependent claims 2-10 and 24-33 are distinguishable for at least the same reasons.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Luh (6,631,319) discloses computing engine rpm gradient based on the transmission ratio and vehicle speed or driver command torque and engine rpm (Abs.; col. 3, line 52 to col. 4, line 1) and Reuschel (6,171,212) discloses controlling an automated clutch using a corrected control signal based on a comparison of the actual engine rpm and a desired engine rpm. Neither of these references disclose or suggest the distinguishing features noted above.

10. Since allowable subject matter has been indicated, applicant is reminded that any response to this action must include cancellation of the non-elected claims in order for the case to be allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756.

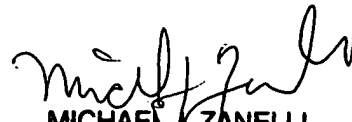
The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz


MICHAEL J. ZANELLI
PRIMARY EXAMINER